
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

EAGLE VIEW TECHNOLOGIES, INC., and
PICTOMETRY INTERNATIONAL CORP.,

Plaintiffs,

v.

NEARMAP US, INC.,

Defendant.

**[PROPOSED] AMENDED PATENT
CASE SCHEDULING ORDER**

Case No.: 2:21-cv-00283-TS-DAO

District Judge Ted Stewart

Magistrate Judge Daphne A. Oberg

Pursuant to Fed.R. Civ P. 16(b), the Court received the Attorney Planning Report (Doc. No. 55) filed by counsel. The Court schedules the following matters. The parties may not modify the times and deadlines set forth herein without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED UNLESS EXPRESSLY STATED TO THE CONTRARY

(1) PRELIMINARY MATTERS/DISCLOSURES

Event	Current Date	[Proposed] Date
Plaintiff's Accused Instrumentalities disclosure due [LPR 2.1]	December 6, 2021	
Last day to hold Rule 26(f)(1) Conference and begin discovery [LPR 1.2, 1.3]	January 3, 2022	
Plaintiff's Rule 26(a)(1) initial disclosure due [LPR 2.2]	January 7, 2022	
Attorney Planning Meeting Report and Proposed Scheduling Order submitted [LPR 1.2]	January 10, 2022	
Defendant's Rule 26(a)(1) initial disclosure due [LPR 2.2]	January 14, 2022	
Plaintiff serves Initial Infringement Contentions [LPR 2.3]	February 10, 2022	
Defendant serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions [LPR 2.4]	February 14, 2022	
Final Infringement Contentions [LPR 3.1]	July 28, 2022	August 29, 2022
Final Unenforceability and Invalidity Contentions [LPR 3.1]	August 11, 2022	September 16, 2022
Final Non-Infringement Contentions [LPR 3.2]	August 25, 2022	September 30, 2022

(2) DISCOVERY LIMITATIONS

Event	Limitation
Maximum number of depositions ¹ by Plaintiff(s)	10
Maximum number of depositions ² by Defendant(s)	10

¹ Excluding depositions of experts.

² Excluding depositions of experts.

Maximum number of hours for each deposition (unless extended by agreement of parties)	7
Maximum interrogatories ³ by any party to any party	25
Maximum requests for admissions by any party to any party	200
Maximum requests for production by any party to any party	100

The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as set forth in the Standard Protective Order for the United States District Court for the District of Utah.

Event	Current Date	[Proposed] Date
Deadline to serve written discovery before claim construction [R. 34]	July 26, 2022	September 30, 2022
Close of fact discovery before claim construction [LPR 1.3(a)]	September 8, 2022	November 11, 2022
Disclosure of intent to rely on opinions of counsel and materials in support [LPR 1.3(b)]	7 days after claim construction ruling	7 days after claim construction ruling
Deadline to file motion for additional discovery [LPR 1.3(b)]	14 days after claim construction ruling	14 days after claim construction ruling

(3) AMENDMENT OF PLEADINGS/ADDING PARTIES

Event	Current Date	[Proposed] Date
Last day to file motion to amend pleadings	September 14, 2022	November 18, 2022
Last day to file motion to add parties	September 14, 2022	November 18, 2022

(4) CLAIM CONSTRUCTION PROCESS

Event	Current Date	[Proposed] Date
Parties exchange proposed claim terms and claim constructions for construction [LPR 4.1(a)]	August 11, 2022	October 18, 2022
Reach agreement to submit no more than 10 terms for construction [LPR 4.1(b)]	August 18, 2022	October 25, 2022

³ An interrogatory or multiple interrogatories seeking the basis of a party's affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in LPR 1.7.

Event	Current Date	[Proposed] Date
Parties file Cross-Motions for Claim Construction and Joint Appendix [LPR 4.2(a) & (b)]	September 15, 2022	November 22, 2022
Parties file Simultaneous Responsive Claim Construction Briefs [LPR 4.2(c)]	October 6, 2022	December 13, 2022
Joint Claim Construction Chart & Joint Status Report Due [LPR 4.2(f)]	October 13, 2022	December 20, 2022
Tutorial for Court [LPR 4.4]	October 20, 2022	January 13, 2023
Parties exchange exhibits [LPR 4.3]	7 days before claim construction hearing	7 days before claim construction hearing
Claim Construction Hearing ⁴ [LPR 4.3]	TBD	TBD

(5) EXPERT DISCOVERY

Event	Date
Parties bearing burden of proof [LPR 5.1(b)]	28 days after claim construction ruling
Counter reports [LPR 5.1(c)]	56 days after claim construction ruling
Close of expert discovery [LPR 5.2]	91 days after claim construction ruling

(6) DISPOSITIVE MOTIONS

Event	Current Date	Extended Date
Deadline to file dispositive motions required to be filed with claim construction [LPR 6.2]	September 15, 2022	November 22, 2022
Deadline to file opposition to dispositive motions filed with claim construction [LPR 6.2, DUCivR 56-1, 7-1]	October 13, 2022	December 23, 2022
Deadline to file reply to dispositive motions filed with claim construction [LPR 6.2, DUCivR 56-1, 7-1]	October 27, 2022	January 6, 2023
Deadline for filing partial or complete motions to exclude expert testimony	105 days after claim construction ruling	105 days after claim construction ruling
Deadline for filing dispositive or potentially dispositive motions [LPR 6.1]	119 days after claim construction ruling	119 days after claim construction ruling

⁴ Parties should contact the Court to set the date for the Claim Construction Hearing

(7) SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION/OTHER PROCEEDINGS

Event	Yes/No
Likely to request referral to a Magistrate Judge for settlement conference	Yes
Likely to request referral to court-annexed arbitration	No
Likely to request referral to court-annexed mediation	Yes
Last day to seek stay pending reexamination [LPR 3.5]	August 11, 2022
The parties will complete private mediation/arbitration by:	TBD
The parties will evaluate case for Settlement/ADR on:	TBD
Settlement probability:	Likely

Plaintiff is directed to file a new scheduling order within 14 days of ruling on claim construction. The Court will set trial deadlines in that order or through a case management conference.

(8) OTHER MATTERS

All Motions in Limine should be filed well in advance of the Final Pretrial Conference.

Signed July 25, 2022.

BY THE COURT:

U.S. Magistrate Judge